

UNITED STATES DISTRICT COURT

DISTRICT OF NEVADA

DERRIUS STOUT-MANSON,

Case No. 2:18-cv-00766-RFB-GWF

Plaintiff,

ORDER

v.

**NEVADA DEPARTMENT OF
CORRECTIONS et al.,**

Defendants

This action is a *pro se* civil rights complaint filed under 42 U.S.C. § 1983 by a state prisoner. On January 15, 2019, this Court issued an order directing Plaintiff to file his updated address with this Court within thirty (30) days. (ECF No. 3). The thirty-day period has now expired, and Plaintiff has not filed his updated address or otherwise responded to the Court's order.

District courts have the inherent power to control their dockets and “[i]n the exercise of that power, they may impose sanctions including, where appropriate . . . dismissal” of a case. *Thompson v. Hous. Auth. of City of Los Angeles*, 782 F.2d 829, 831 (9th Cir. 1986). A court may dismiss an action, with prejudice, based on a party’s failure to prosecute an action, failure to obey a court order, or failure to comply with local rules. See *Ghazali v. Moran*, 46 F.3d 52, 53-54 (9th Cir. 1995) (dismissal for noncompliance with local rule); *Ferdik v. Bonzelet*, 963 F.2d 1258, 1260-61 (9th Cir. 1992) (dismissal for failure to comply with an order requiring amendment of complaint); *Carey v. King*, 856 F.2d 1439, 1440-41 (9th Cir. 1988) (dismissal for failure to comply with local rule requiring *pro se* plaintiffs to keep court apprised of address); *Malone v. U.S. Postal Service*, 833 F.2d 128, 130 (9th Cir. 1987) (dismissal for failure to comply with court order); *Henderson v. Duncan*, 779 F.2d 1421, 1424 (9th Cir. 1986) (dismissal for lack of prosecution and failure to comply with local rules).

In determining whether to dismiss an action for lack of prosecution, failure to obey a court order, or failure to comply with local rules, the court must consider several factors: (1) the public's interest in expeditious resolution of litigation; (2) the court's need to

1 manage its docket; (3) the risk of prejudice to the defendants; (4) the public policy favoring
2 disposition of cases on their merits; and (5) the availability of less drastic alternatives.
3 *Thompson*, 782 F.2d at 831; *Henderson*, 779 F.2d at 1423-24; *Malone*, 833 F.2d at 130;
4 *Ferdik*, 963 F.2d at 1260-61; *Ghazali*, 46 F.3d at 53.

5 In the instant case, the Court finds that the first two factors, the public's interest in
6 expeditiously resolving this litigation and the Court's interest in managing the docket,
7 weigh in favor of dismissal. The third factor, risk of prejudice to Defendants, also weighs
8 in favor of dismissal, since a presumption of injury arises from the occurrence of
9 unreasonable delay in filing a pleading ordered by the court or prosecuting an action. See
10 *Anderson v. Air West*, 542 F.2d 522, 524 (9th Cir. 1976). The fourth factor – public policy
11 favoring disposition of cases on their merits – is greatly outweighed by the factors in favor
12 of dismissal discussed herein. Finally, a court's warning to a party that his failure to obey
13 the court's order will result in dismissal satisfies the "consideration of alternatives"
14 requirement. *Ferdik*, 963 F.2d at 1262; *Malone*, 833 F.2d at 132-33; *Henderson*, 779
15 F.2d at 1424. The Court's order requiring Plaintiff to file his updated address with the
16 Court within thirty (30) days expressly stated: "IT IS FURTHER ORDERED that, if Plaintiff
17 fails to timely comply with this order, the Court shall dismiss this case without prejudice."
18 (ECF No. 3 at 2). Thus, Plaintiff had adequate warning that dismissal would result from
19 his noncompliance with the Court's order to file his updated address within thirty (30)
20 days.

21 IT IS THEREFORE ORDERED that this action is dismissed without prejudice
22 based on Plaintiff's failure to file an updated address in compliance with this Court's
23 January 15, 2019, order.

24 IT IS FURTHER ORDERED that the application to proceed *in forma pauperis* (ECF
25 No. 1) is denied as moot.

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1 IT IS FURTHER ORDERED that the Clerk of Court will enter judgment accordingly.
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3 DATED THIS 4th day of March 2019.



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5 RICHARD F. BOULWARE, II
6 UNITED STATES DISTRICT JUDGE
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